



Agri-Business

**Fall
2014**

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It is not an information guide, nor does it carry regulatory or statutory authority.


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Effective October 1, 2014, sales of all repair and replacement parts used to repair agricultural machinery and equipment used in commercial agriculture are exempt from sales and use taxes. [Click here for more information.](#)



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Sales Tax Exemption for Agricultural Repair and Replacement Parts

Effective October 1, 2014, sales of all repair and replacement parts used to repair agricultural machinery and equipment used in commercial agriculture are exempt from sales and use taxes.

- **LB 96 (2014)**
- **News Release** (09/30/2014)
- **Information Guide: Agricultural Machinery and Equipment Sales Tax Exemption**
- **Nebraska Resale or Exempt Sale Certificate, Form 13**

The purchaser must issue to the seller a properly completed Form 13, Section B, exempt category 2, to exempt the purchase from tax.

- **Nebraska Sales and Use Tax Refund Claim for Agricultural Machinery and Equipment Purchases or Leases, Form 7AG-1**
- **Nebraska Sales Tax Exemption Chart**
- **Reg-1-094, Agricultural Machinery and Equipment Refund**

Overview of Sales and Use Tax

Sales tax is...

- ... a transactional tax,
- ... based on the transaction,
- ... rather than the item sold.

Where the item or service is delivered determines the local sales tax rate and to whom the tax is due.

A sale is...

- ... the transfer of title or possession,
- ... of an item or taxable service,
- ... for consideration.

A lease or rental of tangible personal property...

...can be a sale,

...if there is transfer of possession.

Sales tax is due on each
lease or rental payment.

The Bottom Line for Sales Tax

Sellers must collect sales tax
or
document why they did not.

What is Use Tax?

- Use tax is due when Nebraska sales tax has not been paid on a taxable item or service purchased for use in Nebraska.
- Sales and use tax are not both due on the same transaction.
- The big difference is who remits the tax -
 - Sales tax is collected and remitted by the seller.
 - Use tax is paid directly to the Department by the purchaser/consumer.

Use Tax and Sales Tax Have These Things in Common –

- They are imposed on the same transactions.
- They have the same exemptions.
- They are calculated at the same rate.
 - Where delivery occurs or
 - Where first usage in Nebraska takes place.

When Use Tax is Due

- Use tax is often due when purchases are made from an out-of-state seller
 - Internet, catalog, mail order
 - Magazines and journals by subscription
- Use tax is due when the business withdraws tax-free inventory for business or personal use (including donations)
 - Auto mechanic
 - Hair salon

Note: Be sure to maintain good records!

Agricultural Machinery and Equipment

Commercial agriculture is:

- Producing food products or other useful and valuable crops;
- or
- Raising or caring for animals.

The crops or animals can either be sold or used by the farmer/rancher to produce other products for sale.

Commercial agriculture also includes commercial production in:

- Feedlots;
- Greenhouses;
- Nurseries;
- Sod farms; and
- Tree farms.

Commercial agriculture does not include:

- Animals in sale barns;
- Animals in stockyards;
- Storage of products in commercial elevators; or
- Storage of products off the farm.

Purchases of ag equipment are sales and use tax exempt when all three of these criteria are met (refer to [Reg-1-094](#)):

- The item is used directly in commercial agriculture;
- The item meets the definition of ag equipment; and
- The purchaser properly completes a [Form 13](#), Section B.

Ag equipment:

- Must be depreciable tangible personal property, even if the owner chooses not to depreciate it for income tax purposes;
- Has a determinable life of more than 1 year; and
- Is used in commercial agriculture for the production of income.

- Leases of qualified ag equipment are exempt from sales and use taxes when used directly in commercial agriculture.
- The lessee must give a [Form 13](#), Section B to the lessor.

Ag equipment does not include:

- Real estate;
- Licensable motor vehicles;
- Equipment used in processing at a commercial facility;
- Well drilling equipment; or
- Office equipment
- Other equipment that is not agricultural machinery and equipment.

Qualified ag equipment is exempt from sales and use taxes when purchased at an auction...

...provided the purchaser gives the auctioneer a properly completed [Form 13](#), Section B, Category 2.

Form 13, Section B



Nebraska Resale or Exempt Sale Certificate for Sales Tax Exemption

• Read instructions on reverse side/see note below

RESET FORM

FORM
13

NAME AND MAILING ADDRESS OF PURCHASER			NAME AND MAILING ADDRESS OF SELLER		
Name			Name		
Street or Other Mailing Address			Street or Other Mailing Address		
City	State	Zip Code	City	State	Zip Code

Check Type of Certificate

☐ Single Purchase



Blanket

If blanket is checked, this certificate is valid until revoked in writing by the purchaser.

I hereby certify that the purchase, lease, or rental by the above purchaser is exempt from the Nebraska sales tax for the following reason:

Check One



Purchase for Resale (Complete Section A)



Exempt Purchase (Complete Section B)



Contractor (Complete Section C)

SECTION B—Nebraska Exempt Sale Certificate

The basis for this exemption is exemption category **2** (Insert appropriate category as described on reverse of this form.)

If exemption category 2 or 5 is claimed, enter the following information:

Description of Item(s) Purchased **combine**

Intended Use of Item(s) Purchased **commercial agriculture**

If exemption categories 3 or 4 are claimed, enter the Nebraska Exemption Certificate number. 05-

If exemption category 6 is claimed, seller must enter the following information and sign this form below:

Description of Item(s) Sold

Date of Seller's Original Purchase

Was Tax Paid when Purchased by Seller?



YES



NO

Was Item Depreciable?



YES



NO


For more information, see [Form 13 instructions](#).

Repair and Replacement Parts for Ag Equipment

- Effective October 1, 2014, all repair and replacement parts are exempt if both criteria are met
 - The property repaired is agricultural machinery and equipment
 - The repair parts are sold to eligible purchasers.
- Buyers complete a Form 13 to exempt these sales.
- Repair labor is sales tax exempt

- If repair parts were purchased prior to October 1, 2014 the purchaser may apply for a refund of the tax if:
 - The repair parts are depreciable; and
 - The property repaired is qualified ag equipment.
- To obtain a refund, file a [Form 7AG-1](#) within 3 years of the date of purchase.

Form 7AG-1



Nebraska Sales and Use Tax Refund Claim
for Agricultural Machinery and Equipment Purchases or Leases

RESET

- Read instructions on reverse side
- Type or print clearly

FORM
7AG-1

Federal Employer I.D. or Social Security Number

NAME AND MAILING ADDRESS OF PURCHASER/LESSEE

Name

Street or Other Mailing Address

City State Zip Code

County where property will be located for property taxation (a copy of this claim will be forwarded to the appropriate county assessor and all property listed herein will be subject to personal property taxation)

If leased, will this property be leased or rented for less than one year?
☐ YES ☐ NO

QUALIFYING AGRICULTURAL MACHINERY AND EQUIPMENT					
Description of Property (List Each Item Separately)	Date Purchased/ Leased Mo. Day Yr.	Net Purchase/ Lease Price \$	Local Jurisdiction Imposing Tax	Local Sales and Use Tax Paid \$	Nebraska Sales and Use Tax Paid \$
1					
2					
3					
4					
5					

6 Total local sales and use tax paid.....

7 Total Nebraska sales and use tax paid.....

8 Total refund claimed for Nebraska and local sales and use tax paid (total of lines 6 and 7). No refund will be made if the total amount claimed is less than \$2.00.....

6 \$

7 \$

8 \$

I declare, under penalties of law, that I have examined this claim, and to the best of my knowledge and belief, it is correct and complete.
I also declare that payment of this claim has not been previously made by the state, nor have I claimed or received a refund from the retailer.

sign
here

()

Signature of Purchaser, Lessee, or Agent

Printed Name

Telephone Number

Date

For more detailed information, refer to the [Form 7AG-1 instructions](#).

Contractor Issues

When Work on Ag Equipment Involves Charges for Contractor Labor

- Contractor labor is sales tax exempt; and
- The contractor option chosen determines taxability of purchases of ag equipment or any repair parts.



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get **Answers**

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CURRENT INFORMATION

August Unemployment Rates











Nebraska: 3.6%
National: 6.1%

Next Release Date:
September Rates Oct. 17 at
9:00 AM

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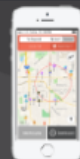
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Option 1 Contractor

- Transactions with the Supplier
 - The Option 1 contractor can purchase building materials and fixtures sales tax exempt for resale.
 - They must give their Nebraska supplier a properly completed [Form 13](#), Section C, Block 1.
- Transactions with the Farmer/Rancher
 - The Option 1 contractor must collect sales tax on separately stated charges for building materials and fixtures unless...
 - A properly completed Form 13, Section B, Category 2, is obtained for qualified agricultural machinery and equipment (for example, a stirrator in a grain bin).

Option 2 Contractor

- Transactions with the Supplier
 - The Option 2 contractor pays sales or use tax on its purchase of building materials and fixtures.
- Transactions with the Farmer/Rancher
 - The Option 2 contractor does not collect sales tax on any portion of the invoice and cannot accept a Form 13.

Option 3 Contractor

- Transactions with the Supplier
 - The Option 3 contractor buys building materials and fixtures sales tax exempt.
 - They must give their Nebraska supplier a properly completed [Form 13](#), Section C, Block 1.
- Transactions with the Farmer/Rancher
 - The Option 3 contractor must remit use tax at the rate in effect at the time and place of withdrawal of building materials and fixtures from inventory.
 - They do not collect sales tax on any portion of the invoice and cannot accept a Form 13.

Form 13, Section C



Nebraska Resale or Exempt Sale Certificate for Sales Tax Exemption

• Read instructions on reverse side/see note below

RESET FORM

FORM
13

NAME AND MAILING ADDRESS OF PURCHASER			NAME AND MAILING ADDRESS OF SELLER		
Name			Name		
Street or Other Mailing Address			Street or Other Mailing Address		
City	State	Zip Code	City	State	Zip Code

Check Type of Certificate

☐ Single Purchase

☐ Blanket

If blanket is checked, this certificate is valid until revoked in writing by the purchaser.

I hereby certify that the purchase, lease, or rental by the above purchaser is exempt from the Nebraska sales tax for the following reason:

Check One ☐ Purchase for Resale (Complete Section A) ☐ Exempt Purchase (Complete Section B) ☐ Contractor (Complete Section C)

SECTION C—For Contractors Only

1. Purchases of Building Materials or Fixtures:

☐ As an Option 1 or Option 3 contractor, I hereby certify that purchases of building materials and fixtures from the above seller are exempt from Nebraska sales tax. My Nebraska Sales or Consumer's Use Tax Permit Number is: 01-

2. Purchases Made Under Purchasing Agent Appointment on behalf of _____:
(exempt entity)

☐ Pursuant to an attached Purchasing Agent Appointment and Delegation of Authority for Sales and Use Tax, Form 17, I hereby certify that purchases of building materials, and fixtures are exempt from Nebraska sales tax.

For more detailed information, refer to the
[Form 13 instructions](#) and [Reg-1-017](#), Contractors.

Purchases That Do Not Qualify

Buildings and Most Structures Do Not Qualify for the Ag Equipment Exemption

- Concrete feed bunks do not qualify if they are permanently attached.
- Barns and outbuildings do not qualify.
- Grain bins do not qualify.
- However, the stirrator in the grain bin does qualify for the exemption.

Seeds and Plants Cannot Be Purchased Sales Tax Exempt When Used for the Following Planting Purposes

- Residential or commercial lawns
- Private ornamental gardens
- Private golf courses
- Seed for land that is removed from production

Personal Property Tax

Personal Property Tax

- All depreciable ag equipment must be reported for personal property tax purposes, even if sales tax is paid on the item.
- Property tax is not related to sales tax.

Refer to
Sales and Use Tax [Regulation 1-094.05](#) –
Agricultural Machinery and Equipment Refund, and
[Personal Property](#) on the Property Assessment website
for additional information.

- All depreciable tangible personal property owned as of January 1 at 12:01 a.m. each year must be reported.
- A [Nebraska Personal Property Return](#) is filed with the county assessor.
- The return must be filed each year on or before May 1.

Water and Energy Source Utility Exemption

Water Used for Ag Purposes

Water is sales tax exempt when more than 90% of the water billed through the meter is used for one or more of the following tax exempt purposes:

- Irrigation of agricultural lands; or
- Care for qualifying animals.

A [Form 13](#) must be issued to the utility when claiming this exemption, unless the utility assigns a formal usage classification.

Energy Source Utility Exemption

A qualified energy source is sales tax exempt when more than 50% of the energy is used for:

- Commercial feed grinding;
- Commercial grain drying;
- Farming; or
- Irrigation.

To purchase energy sources sales tax exempt, give a [Form 13E](#) to the seller.

Refer to Sales and Use Tax Regulation [1-089](#)
Energy Source Utility Exemption, for more information.


- Example of Qualified Use

The electricity billed through a single meter at a hog confinement building qualifies (more than 50% rule).

- Example of Nonqualified Use

The energy used in the farmer/rancher's repair shop is taxable.

Form 13E

 Nebraska Department of REVENUE	Nebraska Energy Source Exempt Sale Certificate	<div style="background-color: yellow; border: 1px solid black; padding: 2px; display: inline-block;">RESET FORM</div> FORM 13E
<div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> NAME AND MAILING ADDRESS OF PURCHASER </div> <div style="width: 48%;"> NAME AND MAILING ADDRESS OF SELLER </div> </div>		
<div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> Name _____ Street or Other Mailing Address _____ City _____ State _____ Zip Code _____ </div> <div style="width: 48%;"> Name _____ Street or Other Mailing Address _____ City _____ State _____ Zip Code _____ </div> </div>		
Check Type of Certificate <input type="checkbox"/> Single Purchase <input type="checkbox"/> Blanket If Blanket is checked, this certificate is valid until revoked in writing by the purchaser.		
Purchaser's Account Number _____		Was an energy audit (analysis) completed prior to issuing this certificate to the seller? <input type="checkbox"/> YES <input type="checkbox"/> NO
Describe your business operations: _____ 		
<div style="border: 1px solid black; padding: 10px;"> <input type="checkbox"/> A. Our purchase of electricity or compressed natural gas is exempt from Nebraska sales and use tax because more than 50 percent of the energy charge through meter number(s) _____ has been properly determined to be used or directly consumed in: (check appropriate box) <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="width: 30%;"><input type="checkbox"/> Manufacturing and Processing</div> <div style="width: 30%;"><input type="checkbox"/> Farming</div> <div style="width: 30%;"><input type="checkbox"/> Generation of Electricity</div> </div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="width: 30%;"><input type="checkbox"/> Irrigation</div> <div style="width: 30%;"><input type="checkbox"/> Refining</div> </div> <input type="checkbox"/> B. Our purchase of coal, fuel oil, diesel fuel, tractor fuel, coke, nuclear fuel, butane, propane, or gas is exempt from Nebraska sales and use tax because more than 50 percent of the amount purchased is used or directly consumed in: (check appropriate box) <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="width: 30%;"><input type="checkbox"/> Manufacturing and Processing</div> <div style="width: 30%;"><input type="checkbox"/> Farming</div> <div style="width: 30%;"><input type="checkbox"/> Generation of Electricity</div> </div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="width: 30%;"><input type="checkbox"/> Irrigation</div> <div style="width: 30%;"><input type="checkbox"/> Refining</div> </div> </div>		
Any purchaser, or the agent thereof, or other person who completes this certificate for any purchase which is not otherwise exempted from the sales and use tax under the Nebraska Revenue Act, as amended, shall in addition to any tax, interest, or penalty otherwise imposed, be subject to a penalty of \$100.00 or ten times the tax, whichever amount is larger, for each instance of presentation and misuse. With regard to a blanket certificate, said penalty shall apply to each purchase made during the period the blanket certificate is in effect. Under the penalties of law, I declare that I am authorized to sign this certificate, and to the best of my knowledge and belief, it is correct and complete.		
<div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="width: 45%;"> <div style="display: flex; align-items: center;"> <div style="font-size: 24pt; font-weight: bold; margin-right: 5px;">sign here</div> <div style="border-bottom: 1px solid black; flex-grow: 1;"></div> </div> <div style="font-size: 10pt; margin-top: 5px;">Authorized Signature of Purchaser</div> </div> <div style="width: 30%;"> <div style="border-bottom: 1px solid black; flex-grow: 1;"></div> <div style="font-size: 10pt; margin-top: 5px;">Title</div> </div> <div style="width: 25%;"> <div style="border-bottom: 1px solid black; flex-grow: 1;"></div> <div style="font-size: 10pt; margin-top: 5px;">Date Issued</div> </div> </div>		

For more detailed information, refer to the [Form 13E instructions](#).



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